IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 8385 of 2007(S)

PETITIONER:

P.C.SHARAFUDHEEN PALLIKKACHAL,
S/O.KUNHI MUHAMMAD HAJI, AGED 42 YEARS, RESIDING
AT DARUL SEENATH, KUDUKKIMOTTA, P.O.KANHIRODE,
KANNUR. NOW EMPLOYEE AT AI-KHOBAR, K.S.A. THROUGH
POWER OF ATTORNEY HOLDER & BROTHER P.C.KUNHALI,
S/O.KUNHI MUHAMMED HAJI, AGED 44 YEARS R/AT -DO-

BY ADV. SRI.M.K.SUMOD
SRI. KAUSER EDAPAGATH

RESPONDENTS:

K.V.T.SAMEENA, D/O.SATHAR HAJI,
32 YEARS, HOUSE WIFE, J.S.WILLA,
NR.L.I.C. OFFICE, TALAP, KANNUR.

BY ADV. SRI.C.KHALID

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ORIGINAL PETITION O.P. NO. 270/2005 FAMILY, COURT, KANNUR.

EXT.P2: TRUE COPY OF THE PETITION TO SET ASIDE THE EXPARTE DECREE.

EXT.P3: TRUE COPY OF THE COUNTER STATEMENT DATED 15.10.2006

EXT.P4: TRUE COPY OF THE ORDER IN I.A. 480/2006 IN O.P. NO. 270/2005 DATED 19.01.2007.

/True Copy/

P.A to Judge.

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ

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W.P.(C) NO. 8385 OF 2007

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Dated this the 19th day of June, 2007.

JUDGMENT

Kurian Joseph,J

Ext.P4 order in I.A No. 480/2006 in O.P. No. 270/2005 on the file of Family Court, Kannur is under challenge. By the said order, the Family Court dismissed the application filed by the petitioner for setting aside the exparte decree. Though the application is vehemently opposed by the counsel for the respondent, having regard to the facts and circumstances as stated in the writ petition and after having heard the learned counsel for the petitioner, and after taking note of the fact that the original petition was filed before the Family Court for dissolution of marriage and that the respondent therein, the wife, is reported to be in India by 15th July, we are of the view that by sufficiently compensating the respondent for the inconvenience caused to him, the petition is to be allowed and a chance is to be given to the petitioner herein to defend the case on merits. Accordingly, we set aside Ext.P4 order in I.A. No. 480/2006, allow the application to set aside the exparte decree in O.P. No. 270/2005 on the file of the Family

Court, Kannur. The parties will appear before Family Court on **17.07.2007**. The Family Court shall dispose of the original petition within another one month. The petitioner shall pay cost to the tune of Rs.2,000/- through the counsel appearing for the respondent before this Court within two weeks and produce the memo before the Family Court. In the event of the cost as above not being paid and the petitioner not appearing before the Family Court on 17.07.2007, the writ petition will stand dismissed.

The writ petition is disposed of accordingly.

KURIAN JOSEPH, JUDGE.

T.R. RAMACHANDRAN NAIR, JUDGE.

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